IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.595 OF 2005
IN
COMPANY PETITION NO.960 OF 2004

M/s.Meena Printech Pvt.Ltd. .. Appellant.

V/s.

Gaurang M. Mehta .. Respondent.

Mr.Sandeep Parikh i/b.Gordhandas & Fozdar for the appellant.

Mr.Simil Purohit with Mr.Darshan Mehta i/b. Dhruva Liladhar & Co. for the respondent.

CORAM : R.M. LODHA &
J.P. DEVADHAR, JJ.

DATED : 19TH JULY, 2005.

P.C. :

Heard.

2. Admit.

3. Mr.Simil Purohit, Advocate for the respondent waives service.

4. Printing of paper books dispensed with.

5. By consent, the appeal is heard finally at this stage.

6. During the course of hearing, the learned counsel for the appellant (the company) submitted that without prejudice to the appellant's rights and contentions, the appellant-company is ready and willing to deposit in the Court the principal amount of Rs.4,76,912/- that according to the present respondent is due and payable by the company to them. The learned counsel for the appellant-company submitted that the respondent, if so advised, may file suit for recovery of due amount against the appellant and the appellant shall be free to contest the said suit on available pleas.

7. The submission of the learned counsel for the appellant-company appears to be reasonable and proper. As a matter of fact, the learned counsel for the respondent did not have any serious objection to the course suggested by the learned counsel for the appellant. He, however, prayed for the exclusion of time from the date of presentation of winding up petition until today while computing the period of limitation of the suit.

8. In the light of the submissions made by the learned counsel for the parties, we are satisfied that the following order shall meet the ends of justice. Hence, the order :

i) The appellant is granted time of four weeks for depositing a sum of Rs.4,76,912/- with the Prothonotary & Senior Master of this Court.

ii) Upon deposit of the aforesaid amount by the appellant, the impugned order passed by the learned Company Judge dated June 23, 2005 shall stand set aside and the Company Petition No.960 of 2004 shall stand dismissed.

iii) The respondent is at liberty to file civil suit for recovery of its due amount from the present appellant.

iv) The amount deposited by the appellant with the Prothonotary & Senior Master shall be invested in the fixed deposit of any nationalised bank initially for a period of one year and renewed every year until disposal of the suit. The principal amount so deposited in the fixed deposit and the interest accrued thereon shall stand transferred to the account of the suit that may be filed by the respondent.

v) The period from the date of the presentation of the winding up petition until today shall be excluded under Section 14 of the Limitation Act, 1963 for computation of limitation of the suit.

vi) In case the appellant fails to deposit the amount of Rs.4,76,912/- within four weeks from today with the Prothonotary & Senior Master, the proceedings in the Company Petition No.960 of 2004 as per order dated June 23, 2005 shall take place and this appeal shall stand dismissed without further reference.

9. No costs.

(R.M. LODHA, J.)

(J.P. DEVADHAR, J.)